

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1100 OF 2006
IN
CRIMINAL APPEAL NO.944 OF 2004

Imran Mehandi @ Dilawar Nasir
Shaikh ...Applicant.

Versus

The State of Maharashtra ...Respondent.

.....
Mr.K.S.Patil, Advocate for the Applicant.
Mr.D.P.Adsule, APP, for State.
.....

CORAM : SMT.V.K.TAHILRAMANI, J.

DATED : 22nd February, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant-orig. accused No.1 and the learned APP for the State.

2. The applicant has been convicted under Sections 3(1)(ii) and 3(4) of the MCOC Act in MCOC Special Case No.10-A/2000 along with MCOC Special Case No.13/2002. He has also been convicted under various sections of IPC. The maximum sentence imposed on the applicant is R.I. for seven years and fine of Rs.5 Lakh. The applicant is now

seeking bail.

3. The applicant was earlier facing prosecution in a MCOC Case. However, during the course of trial the applicant escaped from custody. Hence his case was separated and the trial in the case of other accused was concluded. Thereafter, the applicant came to be traced. After the trial, he came to be convicted in that case as well as in the case in which he had escaped from custody.

4. Mr.Patil has submitted that the case of the applicant is the same as that of other co-accused who were tried in MCOC Case No.10/2000. The appeal preferred by those accused has been partly allowed by the High Court and they were acquitted of the MCOC Act. Mr.Patil submitted that as the case of the applicant is similar to that of those co-accused, the applicant may be released on bail.

5. Mr.Patil has further submitted that the Sessions Court has relied on inadmissible material for convicting the applicant. It is further contended that no charge under Section 307 of IPC

was framed against the applicant and yet the applicant has been convicted under the said Section. As far as this aspect is concerned, it is pertinent to note that as far as Sections under the MCOC Act is concerned under which the applicant is convicted, there is no grievance that no charge was framed under those sections. As stated earlier, the applicant has been mainly convicted under the MCOC Act and the maximum sentence of imprisonment imposed on him is seven years and fine of Rs.5 lakhs. The fine amount has yet not been paid.

6. Mr.Adsule the learned APP has pointed out that when the applicant was facing trial in Sessions Case No.10-A/2000 the applicant fired on the Police party while he was being taken to the Court for trial and thereafter the applicant escaped. This incident occurred on 31.3.2001. Thereafter the applicant came to be traced and taken into custody on 20.9.2002. Mr.Adsule submitted that this clearly reflects tendency of the applicant to escape from custody. Hence he strongly opposed the grant of bail.

7. Mr.Patil has submitted that after the above incident the applicant had been released on parole for seven days and the applicant has reported to the police station everyday and surrendered back on time. As far as this aspect of granting parole is concerned, it is seen that parole for seven days was granted to the applicant by order dated 2.8.2006 on account of death of his mother.

8. Looking to the fact that the applicant has been convicted under the MCOC Act and the earlier history of the applicant firing on the police party and escaping from custody when he was being taken to the Court, I am not inclined to grant bail to the applicant.

9. Criminal Application is rejected.

10. However, looking to the fact that applicant has undergone a major part of his imprisonment, Appeal is expedited. Liberty to applicant to prepare paper book privately at his own costs. As soon as the paper book is ready the Appeal be listed for final hearing.

.. (5) ..

(SMT.V.K.TAHILRAMANI, J.)